

Fauquier County
Project 0866-030-335, N501
Recreational Access
Central Fauquier Sports Complex

DRAFT

This AGREEMENT is made and entered into this ____ day of _____, 2002 by and between the COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION (hereinafter referred to as the "DEPARTMENT") and the COUNTY OF FAUQUIER, VIRGINIA (hereinafter referred to as the "LOCALITY"); and

WHEREAS, the LOCALITY by Resolution dated [October 15, 2001](#), has requested that the DEPARTMENT establish a project to assist in providing adequate access to serve the [Central Fauquier Sports Complex](#); and,

WHEREAS, the Commonwealth Transportation Board, subject to certain contingencies, has allocated an amount not to exceed [\\$320,450](#) from the Recreational Access Fund, pursuant to §33.1-223 of the Code of Virginia, to provide adequate access to the [Central Fauquier Sports Complex](#), such being designated as Project [0866-030-335, N501](#); hereinafter referred to as the PROJECT; and,

WHEREAS, the LOCALITY hereby acknowledges and agrees to the contingencies of this allocation, as set forth in the [October 16, 2002](#), resolution of the Commonwealth Transportation Board, which is made a part of this AGREEMENT by reference; and,

WHEREAS, both parties wish to determine the manner of performing the work, the timing of the work to be performed, and the responsibility of each party;

WHEREAS, the LOCALITY desires to administer the PROJECT's design and construction through its capabilities and/or those of its agents.

NOW, THEREFORE, for and in consideration of mutual covenants herein specified to be kept and performed, it is agreed by the parties hereto as follows:

A. The Recreational Access PROJECT is described as the construction of an 18-foot wide asphalt road from Route 643 and continuing north for a distance of 0.41 mile to the park parking lot; Route 643 will be widened to provide a right and left turn lane at the entrance to the park; and, an 8-foot wide bikeway will be constructed adjacent to the roadway, but outside the proposed 50-foot right of way. Maintenance of the bikeway shall be the responsibility of the LOCALITY. This improvement and related preliminary engineering activities necessary to construct the facility described above to the appropriate standards as shown on the approved plans shall be designated as Project 0866-030-335, N501.

B. The LOCALITY shall:

1. Present plans, specifications, cost estimates and related contract documents to the DEPARTMENT for approval prior to commencement of PROJECT construction. These plans shall specifically identify the contract items and the estimated quantity of such item. Any such item(s) not eligible for financing from the Recreational Access Fund shall be so designated on the plans or otherwise identified and agreed upon by the DEPARTMENT. PROJECT costs incurred or PROJECT services contracted prior to October 16, 2002 will not be considered eligible for reimbursement from the Recreational Access Fund.
2. Prescribe that all items of work and material for this PROJECT's construction will be in compliance with applicable DEPARTMENT standards and specifications.
3. Prepare any required environmental documents and secure any applicable permits necessary for this PROJECT's construction. Costs associated with this work will not be considered eligible for reimbursement from the Recreational Access Fund.
4. Prior to commencement of construction on any portion of this PROJECT within the right-of-way of road(s) currently a part of the state maintained

system of highways, secure a highway permit from the DEPARTMENT for such work.

5. Secure all right-of-way necessary for the PROJECT's construction in accordance with approved plans, including any required slope, utility and drainage easements, in a manner satisfactory to the DEPARTMENT. The LOCALITY shall certify that all such right of way is clear prior to advertisement. Costs associated with the provision of right of way will not be considered eligible for reimbursement from the Recreational Access Fund.
6. Arrange for the adjustment of any utilities in conflict with the PROJECT's construction. Costs associated with the adjustment of utilities will not be considered eligible for reimbursement from the Recreational Access Fund.
7. In accordance with the approved plans, specifications and related documents administer the PROJECT by letting it to contract through the LOCALITY's competitive bidding procedures in accordance with the Virginia Procurement Act. No contractor currently disqualified from bidding on contracts with the DEPARTMENT because of collusion or any matter relating to violation of State or Federal Anti-Trust Law may participate, either as a prime contractor, subcontractor, or supplier, in any part of this PROJECT's construction. The contract proposal, documents and plans shall be submitted to the DEPARTMENT for approval. Following receipt of bids the package will be submitted to the DEPARTMENT for review and approval, prior to execution of contract.
8. Be responsible for the appropriate inspection and testing of the PROJECT's construction to assure compliance with the DEPARTMENT's standards and specifications. However, should it be mutually agreed upon prior to the initiation of the construction, the DEPARTMENT will perform the inspection and testing. The cost of such inspection shall be considered an eligible PROJECT item for reimbursement from the Recreational Access Fund.

9. Make the PROJECT available for review by the DEPARTMENT personnel during its construction; make final inspection jointly with the DEPARTMENT upon completion of the PROJECT's construction; and obtain the DEPARTMENT's concurrence in the PROJECT's acceptance.
10. Maintain accurate records of all PROJECT costs in a form satisfactory to the DEPARTMENT and make such records available for review by the DEPARTMENT upon request.
11. Provide from the LOCALITY's general fund for the financing of any eligible PROJECT costs and all ineligible PROJECT costs as determined by the DEPARTMENT pursuant to the DEPARTMENT's current policy and procedure in the administration of the Recreational Access Program:
 - a) in the construction of the access road in excess of \$267,450; and
 - b) in the construction of the bikeway in excess of \$53,000.
12. Provide from the LOCALITY'S general fund the required \$17,450 matching funds for the construction of the access road.
13. Present the DEPARTMENT with proper certification and billing for PROJECT costs incurred by the LOCALITY in the design and construction of the PROJECT's eligible items, as herein prescribed, upon acceptance of the PROJECT pursuant to paragraphs B (9) and C (4). All eligible PROJECT costs in excess of the Commonwealth Transportation Board's Recreational Access Fund allocation and any ineligible PROJECT costs will be paid from sources other than those administered by the DEPARTMENT. Monthly progress billings may be submitted prior to final acceptance.

C. The DEPARTMENT shall:

1. Review the plans, specifications and related contract documents presented by the LOCALITY pursuant to paragraph B (1), and approve them with whatever

modifications, if any, it deems appropriate.

2. Upon application by the LOCALITY, pursuant to paragraph [B \(4\)](#), issue a permit for this PROJECT's construction. This permit shall be in accordance with applicable provisions of the DEPARTMENT's current "Land Use Permit Manual", "Road Design and Standards Manual", and "Road and Bridge Specifications", which are incorporated into this AGREEMENT by reference. No fee or bond will be required in the issuance of this permit.
3. Make a final inspection with the LOCALITY upon completion of the PROJECT's construction, and if appropriate, concur in the PROJECT's acceptance.
4. Upon final acceptance of the PROJECT and receipt of LOCALITY's invoices, pursuant to the provisions of paragraph [B \(13\)](#), reimburse the LOCALITY for actual PROJECT costs of eligible items under the Recreational Access Program.
 - a) in an amount not to exceed [\\$267,450](#) for actual PROJECT costs of eligible items in the construction of the access road; and
 - b) in an amount not to exceed [\\$53,000](#) for actual PROJECT costs of eligible items in the construction of the bikeway.

Upon satisfaction of the contingencies of the Commonwealth Transportation Board resolution dated [October 16, 2002](#) and to the extent herein provided, any such progress payment or reimbursement shall be payable by the DEPARTMENT within 30 days of submission by the LOCALITY.

- D. Both parties acknowledge that the PROJECT is state-funded and will comply with the applicable requirements of APPENDIX A.1s pertaining to the Environmental Process, which is attached and made a part of this AGREEMENT.

THIS AGREEMENT, when properly executed, shall be binding upon parties, their

successors, and assigns.

In WITNESS WHEREOF, the parties sign and cause this Agreement to be executed on this
the _____ day of _____, 20____.

COUNTY OF FAUQUIER

DRAFT

Clerk to the Board of Supervisor's _____ Date _____

Chairperson, _____ Date _____
Fauquier County Board of Supervisors

APPROVED AS TO FORM

County Attorney

NOTE: Any official signing for and on behalf of a municipality or political subdivision should attach a certified copy of order, resolution, ordinance or charter provision, or a citation to statute, under the authority of which this AGREEMENT is executed.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

Philip A. Shucet
Commonwealth Transportation Commissioner

Date

Signature of Witness

Date

Appendix A.1s — Environmental Process for State-Funded Projects

The following general requirements pertain to all state-funded projects. Regardless of funding, the State Environmental Review Process (SERP) must be completed prior to advertisement and land disturbance in order to satisfy the requirements of the Code of Virginia 10.1-1188 (b). If the Locality agrees to assume responsibility for environmental studies, the following items establish the general responsibilities of the parties under this agreement:

A. The DEPARTMENT will:

1. Process the project through the SERP. Upon receipt of the completed Early Notification form (EQ-429) from the Locality, the Residency and/or Urban Division will submit the form to the District Environmental Section for processing through the SERP.
2. Provide the results of the SERP to the Residency and/or Urban Division, who will forward the results to the Locality.
3. Identify a VDOT representative for environmental decisions.
4. Confirm, with Locality assistance, compliance with all environmental commitments before, during, and after construction.

B. The LOCALITY will:

1. Submit the completed Early Notification form (EQ-429) and any other necessary information to the Residency and/or Urban Division regarding the scope of the proposed project.
2. Meet with Department personnel (and other agency personnel at the Department's discretion) to scope the project and discuss the procedures by which the environmental commitments will be fulfilled by either the Department or the Locality. Scoping will include discussion of:
 - a. Description of the proposed action;
 - b. Certification that the project is included in any necessary planning documents (i.e., Transportation Improvement Plan (TIP), Constrained Long Range Plan (CLRP), Secondary Roads Six-Year Plan);
 - c. Project schedule;
 - d. Water quality permits;
 - e. Appropriate VDOT, Locality and agency contacts;
 - f. Required technical studies.
3. Provide qualified staff to manage the environmental process.
4. Provide the Department an opportunity to review and approve the consultant to perform the environmental studies required as a result of the SERP.
5. Provide the Department an opportunity to review and approve the environmental scope of work for any technical studies.

6. Provide all requests to VDOT for technical and coordination assistance from Locality staff and not from the Locality's consultant.
7. Ensure that results of the SERP are considered in the location and design decisions for the project.
8. Provide a letter of certification when the project is submitted for Plans, Specifications, and Estimates (PS&E) approval that the project description has not changed since completion of the SERP, or if any changes have occurred submit a revised Early Notification form (EQ-429) to the Department for consideration and additional coordination with state agencies.
9. Identify control measures to ensure compliance during construction with environmental commitments.
10. If the Locality constructs the project, ensure and certify that all environmental commitments have been achieved, before, during and after construction, that all necessary permits have been obtained, and that all conditions of local, state, and federal erosion and sedimentation (E&S) and stormwater related ordinances, laws, and regulations have been satisfied.